

REMARKS/ARGUMENTS

This paper is responsive to the Final Office Action dated March 30, 2004, having a shortened statutory period expiring on June 30, 2004, wherein:

Claims 1, 3-12, 14, 15, 17-20, 22-25, and 27-29 were pending in the application;

Claims 5, 19, 24, and 29 were objected to; and

Claims 1, 3, 4, 6-12, 14, 15, 17, 18, 20, 22, 23, 25, 27, and 28 were rejected.

Applicants' claims 5, 19, 24, and 29 have been amended herein in accordance with the Examiner's indication of allowable subject matter and no claims have been added or canceled by this amendment. Consequently, claims 1, 3-12, 14, 15, 17-20, 22-25, and 27-29 remain currently pending in the present application.

Formal Matters

In the present Office Action, the Examiner objected to Applicants' claims 5, 19, 24, and 29 as being dependent upon a rejected base claim but otherwise allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants wish to express their appreciation for the Examiner's indication of allowable subject matter. Applicants have amended claims 5, 19, 24, and 29 herein in accordance with the Examiner's suggestion and respectfully submit that these claims, as amended, are allowable.

Examiner's Response to Arguments

In the present Office Action, the Examiner has responded to the arguments of Applicants' Response to Non-Final Office Action filed January 22, 2004. Applicants appreciate the Examiner's consideration and respectfully traverse the Examiner's response as follows.

In paragraph 5 of the present Office Action, the Examiner disagrees with Applicants' prior statement that United States Patent No. 5,951,651, issued to Lakshman et al. (hereinafter "***Lakshman***") fails to teach a method of packet processing comprising, "deconstructing said packet header to form header data using a second peripheral

processor” as required by Applicants’ claim 1. More specifically, the Examiner states regarding “deconstructing a packet” that

...such a term is generally regarded as broad in the art, and references a wide variety of activities, provided they provide the intended result of determining the header information. This includes the filtering of information, which is known in the art to be a form of deconstruction and which is admitted by the applicant to be included in *Lakshman* (P. 9, lines 15-20). (Final Office Action dated March 30, 2004, Pages 2-3, Paragraph 5)

Applicants respectfully disagree. As an initial matter, Applicants wish to clarify that while it is acknowledged by Applicants that *Lakshman* teaches “filtering” (e.g., a “Packet filter system using BITMAP vector of filter rules for routing packet through network”, *Lakshman*, Title), Applicants have not admitted that filtering is a form of deconstruction as taught by *Lakshman* or otherwise.

A term within a claim (e.g., “deconstructing”) will be given its ordinary and accustomed meaning, unless it appears that the inventor used it differently. (*Envirotech Corp. v. Al George, Inc.*, 730 F.2d 753, 759, 221 USPQ 473, 477 (Fed. Cir. 1984)). “Construct” is defined (Merriam-Webster Online Dictionary. 2004. <http://www.merriam-webster.com> (11 Jun. 2004)) as “to make or form by combining or arranging parts or elements.” Consequently, Applicants submit that the ordinary and accustomed meaning of “deconstruct” is to unmake or dismantle by separating parts or elements. Applicants note that this definition of deconstructing does not require that values or attributes of the parts or elements be known or indicate that any of the parts or elements are necessarily destroyed or discarded following deconstruction.

By contrast, the verb “filter” is defined as “to subject to the action of a filter” or “to remove by means of a filter” and the noun “filter” is defined in relevant part as “a device or material for suppressing or minimizing waves or oscillations of certain frequencies (as of electricity, light, or sound)” (Merriam-Webster Online Dictionary. 2004. <http://www.merriam-webster.com> (11 Jun. 2004)). Consequently, the ordinary and accustomed meaning of “filtering” indicates both that the content of that which is being filtered must be known or ascertained and that at least a portion of that which is being filtered is modified or discarded (e.g., removed, suppressed, or minimized). Applicants therefore respectfully submit that the filtering of information would not have been

considered to be a form of deconstruction by one of ordinary skill in the art at the time of Applicants' invention as suggested in the present Office Action.

Applicants further submit that **Lakshman** fails to teach, and that the Examiner has failed to indicate how and where **Lakshman** teaches each element of Applicants' claim 1 as required by a *prima facie* case of anticipation. Anticipation under 35 U.S.C. §102 requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984)). Consequently, to establish a *prima facie* case of anticipation, the Examiner must show that **Lakshman** teaches not only the deconstruction of a packet header, but that the recited deconstruction is performed 1) using a second peripheral processor and 2) to form header data, as claimed.

Regarding the use of a second peripheral processor, the Examiner has referenced operation controller 260 and register 276 of Figure 8b as teaching the recited second peripheral processor and further stated that,

The applicant admits that, for each of the areas that examiner pointed to previously, that hardware is used to store parameters and to control performance in order to fulfill at least one task (i.e. P. 10, lines 16-18. As such, they fulfill the definition of a processor as known in the art...the examiner holds that each device shown prior is at least part of a single discrete processor. For example, elements 260 and 276 are parts of processing element(s) 250a...n. Element 295 is a discrete processor, separate from 250, that controls element 225.

Applicants must again respectfully disagree. Applicants have not submitted merely that neither operation controller 260 nor register 276 of Figure 8b of **Lakshman** teaches a peripheral processor as recited in Applicants' claim 1, but rather that **Lakshman** fails to teach, and that the Examiner has failed to indicate how and where **Lakshman** teaches that operation controller 260, register 276, or processing elements 250a...250n are used to deconstruct a packet header to form header data as required by Applicants' claim.

In the present Office Action, the Examiner states that the filtering of information, "is known in the art to be a form of deconstruction" and references Column 6, Lines 35-45 of **Lakshman** which teaches a exemplary filter architecture memory organization including "filter actions" and "filter specifications" (see Final Office Action dated March

30, 2004, Page 3, Paragraph 5). While Applicants maintain that the filtering of information would not have been considered to be a form of deconstruction, Applicants further submit that neither operation controller 260 and register 276, cited by the Examiner as teaching a second peripheral processor used to deconstruct a packet header to form header data, nor processing elements 250a...250n, indicated as having elements 260 and 276 as component parts, are used for deconstruction or filtering according to the teaching of *Lakshman*.

Rather, operation controller 260 and register 276 are used at most according to *Lakshman*, to store a parameter and control the performance of a binary searching method to ascertain a window partition (see, e.g., *Lakshman*, Column 6, Lines 12-21). Similarly, *Lakshman* teaches that processing elements 250a...250n are used to receive an incoming packet, store a parameter in register 276, perform a comparison to ascertain the correct window partition to apply to the received packet, and to determine and output a corresponding bitmap vector containing potential filter rules (see, e.g., *Lakshman*, Column 6, Lines 12-24).

As none of the cited elements are taught by *Lakshman* as being used for “filtering” Applicants submit that they cannot be construed as being used to perform “deconstructing” according to *Lakshman*’s teaching, even accepting *arguendo* that “filtering” was a form of “deconstruction” as proposed by the Examiner. Consequently, it is respectfully submitted that *Lakshman*, as interpreted by the Examiner, cannot be construed as teaching that operation controller 260, register 276, or processing elements 250a...250n are used to deconstruct a packet header to form header data as claimed (Applicants’ claim 1).

Regarding the deconstruction of a packet header “to form header data” the Examiner has referenced Figures 4 and 6 and Column 6, Lines 35-45 of *Lakshman*. According to the teaching of *Lakshman* however, the array of windows of Figure 4 and the memory organization of Figure 6, described at the cited Column 6, Lines 35-45 of *Lakshman* are generated before a packet is received and a filter rule is applied (see *Lakshman*, Figure 7, steps 110, 120, and 140). Applicants therefore submit that *Lakshman* cannot be construed as teaching filtering or the application of a filter rule to a

packet “to form” the array of windows of Figure 4 or the memory organization of Figure 6 and consequently fails, as interpreted by the Examiner, to teach, “deconstructing said packet header to form header data” as claimed (Applicants’ claim 1).

In paragraph 3 of the present Office Action, the Examiner states that, “The applicant reserves the right to argue that **Lakshman** is nonanalogous art.” Applicants wish to clarify that in the Response to Non-Final Office Action filed January 22, 2004, Applicants reserved the right to argue that one or more of the Examiner’s cited references fail to qualify as “prior” art. As a cited reference may fail to qualify as prior art for a variety of reasons (e.g., for failing to antedate Applicants’ invention as shown in an Affidavit under 37 CFR §1.131, as excluded for being commonly assigned or subject to an obligation of assignment at the time of invention, or the like), Applicants respectfully submit that the above-described reservation of right should not be limited to nonanalogousness as a basis for argument.

In paragraph 4 of the present Office Action, the Examiner states that, “In response to applicant’s argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., “deconstructing, editing, etc.”) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.” Applicants respectfully disagree. Applicants’ claim 1 recites a method of packet processing comprising, “deconstructing” said packet header to form header data using a second peripheral processor and “editing” said packet based on said search results, said header data, and said vector using a fourth peripheral processor. If further clarification is needed, the Examiner is invited to telephone Applicants’ representative at the number indicated below.

Rejections under 35 U.S.C. §102 and 103

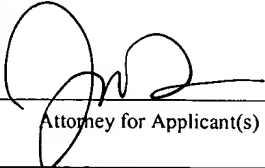
In the present Office Action, claims 1, 3, 4, 6, 7, 9-12, 14, 15, 17, 18, 20, 22, 23, 25, 27, and 28 were rejected under 35 U.S.C. 102(e) as being anticipated by **Lakshman** and claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over **Lakshman** in view of U.S. Patent No. 6,421,730, issued to Narad et al. (hereinafter “**Narad**”). While not conceding that the Examiner’s cited reference(s) qualify as prior art, but instead to

expedite prosecution, Applicants have elected to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that one or more of the Examiner's cited references do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

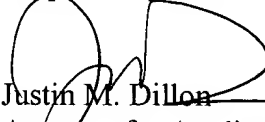
In addition to the those arguments previously made by Applicants which are maintained and the indicated allowability of claims 5, 19, 24, and 29, Applicant submit that for at least the foregoing reasons, claims 1 and 6 are allowable over the Examiner's cited references. Applicants further submit that all remaining claims, depending directly or indirectly from Applicants' claims 1 or 6 are allowable for at least the reasons stated for the allowability of the corresponding claim(s) from which they depend.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5097.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on <u>6-22-09</u> .	
	<u>6-22-09</u>
Attorney for Applicant(s)	Date of Signature

Respectfully submitted,


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